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AMENDMENT TO H.R. 610
OFFERED BY MR. COSTELLO OF ILLINOIS

Page 42, after line 10, insert the following new section:

1 SEC. 212. EXTERNAL REGULATION OF DEPARTMENT.

2 (a) ELIMINATION OF DEPARTMENT AUTHORITY.—
3 Effective 2 years after the date of enactment of this Act,
4 the Department shall have no regulatory or enforcement
5 authority with respect to nuclear safety and occupational
6 safety and health responsibilities assumed by the Nuclear
7 Regulatory Commission under subsection (b) or by the Oc-
8 cupational Safety and Health Administration under sub-
9 section (c) at any nonmilitary energy laboratory owned or
10 operated by the Department.

11 (b) NUCLEAR REGULATORY COMMISSION AUTHOR-
12 ITY.—

13 (1) NUCLEAR SAFETY REGULATORY AND EN-
14 FORCEMENT RESPONSIBILITIES.—Effective 2 years
15 after the date of enactment of this Act, the Nuclear
16 Regulatory Commission shall assume the nuclear
17 safety regulatory and enforcement responsibilities of
18 the Department under the Atomic Energy Act of



1 1954 with regard to nonmilitary energy laboratories
2 owned or operated by the Department.

3 (2) LICENSED ENTITIES.—For the purposes of
4 carrying out at nonmilitary energy laboratories
5 owned or operated by the Department regulatory
6 and enforcement responsibilities described in para-
7 graph (1), the Nuclear Regulatory Commission may
8 regulate, through licensing, certification, or other
9 appropriate means, the Department's contractors.

10 (3) DECOMMISSIONING.—A contractor oper-
11 ating a nonmilitary energy laboratory owned by the
12 Department shall not be responsible for the costs of
13 decommissioning that facility. No enforcement action
14 may be taken against such contractor for any viola-
15 tion of Nuclear Regulatory Commission decommis-
16 sioning requirements, if such violation is the result
17 of a failure of the Department to authorize or fund
18 decommissioning activities. The Nuclear Regulatory
19 Commission and the Department shall, not later
20 than 1 year after the date of enactment of this Act,
21 enter into a memorandum of understanding estab-
22 lishing decommissioning procedures and require-
23 ments for nonmilitary energy laboratories owned or
24 operated by the Department.



1 (4) ACCELERATORS.—Notwithstanding the pro-
2 visions of the Atomic Energy Act of 1954 (42
3 U.S.C. 2011 et. seq.), effective 2 years after the
4 date of enactment of this Act, the Nuclear Regu-
5 latory Commission shall have exclusive regulatory
6 authority over accelerators, other electronic sources
7 of radiation not assigned to the Commission as of
8 the date of enactment of this Act, accelerator-pro-
9 duced radioisotopes, and naturally occurring radio-
10 active materials at nonmilitary energy laboratories,
11 consistent with the authorities granted the Nuclear
12 Regulatory Commission in the Atomic Energy Act of
13 1954. Until such time as the Commission has com-
14 pleted a rulemaking for the foregoing equipment and
15 radioisotopes, nonmilitary energy laboratories shall
16 be required to meet the requirements stipulated in a
17 license for the facility.

18 (5) ADMINISTRATION.—The responsibilities as-
19 sumed by the Nuclear Regulatory Commission under
20 this subsection shall be administered by the Nuclear
21 Regulatory Commission, not by States.

22 (6) JUDICIAL REVIEW.—Section 189 b. of the
23 Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is
24 amended by adding the following paragraph after
25 paragraph (4):



1 “(5) Any final order or regulation of the Com-
2 mission establishing standards to govern nonmilitary
3 energy laboratories owned or operated by the De-
4 partment of Energy that is issued to implement the
5 Commission’s responsibilities under the Act which
6 enacted this paragraph, and any final determination
7 of the Commission relating to whether a nonmilitary
8 energy laboratory owned or operated by the Depart-
9 ment is in compliance with such standards and all
10 applicable Commission regulations or orders.”.

11 (7) EMPLOYEE PROTECTION.—Any Department
12 contractor operating a nonmilitary energy laboratory
13 that is regulated by the Nuclear Regulatory Com-
14 mission under this section shall be subject to section
15 211 of the Energy Reorganization Act of 1974 (42
16 U.S.C. 5851) to the same extent as any other em-
17 ployer subject to such section 211.

18 (8) CONFLICT OF INTEREST.—Section 170A of
19 the Atomic Energy Act of 1954 (42 U.S.C. 2210a)
20 applies to contracts, agreements, or other arrange-
21 ments of the Nuclear Regulatory Commission pro-
22 posed or entered into pursuant to its responsibilities
23 assumed under this subsection.

24 (c) OCCUPATIONAL SAFETY AND HEALTH.—



1 (1) OSHA JURISDICTION.—Notwithstanding
2 section 4(b)(1) of the Occupational Safety and
3 Health Act of 1970 (29 U.S.C. 653(b)(1)), effective
4 2 years after the date of enactment of this Act, the
5 Occupational Safety and Health Administration shall
6 assume the exclusive regulatory and enforcement re-
7 sponsibilities of the Department relating to matters
8 covered by the Occupational Safety and Health Act
9 of 1970 with regard to all nonmilitary energy lab-
10 oratories owned or operated by the Department, ex-
11 cept as provided in paragraph (2). The responsibil-
12 ities assumed by the Occupational Safety and Health
13 Administration under this subsection shall be admin-
14 istered by the Occupational Safety and Health Ad-
15 ministration, not by States. Any Department con-
16 tractor operating such a laboratory shall, with re-
17 spect to matters relating to occupational safety and
18 health, be considered to be an employer for purposes
19 of the Occupational Safety and Health Act of 1970.

20 (2) REGULATION OF HAZARDS CONTAINING RA-
21 DIOLOGICAL AND NON-RADIOLOGICAL COMPO-
22 NENT.—If a hazard at a nonmilitary energy labora-
23 tory owned or operated by the Department presents
24 a risk of occupational exposure and contains both a
25 radiological and non-radiological component, the Oc-



1 occupational Safety and Health Administration and
2 the Nuclear Regulatory Commission shall, effective 2
3 years after the date of enactment of this Act, share
4 regulatory and enforcement responsibilities with re-
5 spect to the hazard in accordance with the memo-
6 randum of understanding entered into pursuant to
7 subsection (d).

8 (d) MEMORANDUM OF UNDERSTANDING.—The Nu-
9 clear Regulatory Commission and the Occupational Safety
10 and Health Administration shall, not later than 1 year
11 after the date of enactment of this Act, enter into and
12 transmit to the Congress a memorandum of under-
13 standing to govern the exercise of their respective authori-
14 ties over nuclear safety and occupational safety and health
15 at nonmilitary energy laboratories owned or operated by
16 the Department.

17 (e) CIVIL PENALTIES.—The Department's contractor
18 operating a nonmilitary energy laboratory owned or oper-
19 ated by the Department shall not be liable for civil pen-
20 alties under the Atomic Energy Act of 1954 or the Occu-
21 pational Safety and Health Act of 1970 for any actions
22 taken before the date of transfer of regulatory authority
23 under this section, pursuant to the instructions of a Fed-
24 eral agency in preparation for the transfer of regulatory
25 and enforcement responsibilities required by this section.



1 (f) INDEMNIFICATION.—The Secretary shall continue
2 to indemnify nonmilitary energy laboratories owned or op-
3 erated by the Department in accordance with the provi-
4 sions of section 170 d. of the Atomic Energy Act of 1954.

5 (g) DEPARTMENT REPORTING REQUIREMENT.—Not
6 later than 18 months after the date of enactment of this
7 Act, the Secretary shall transmit to the Congress a plan
8 for the termination of the Department's regulatory and
9 enforcement responsibilities for nonmilitary energy labora-
10 tories owned or operated by the Department required by
11 this section. The report shall include—

12 (1) a detailed transition plan, drafted in coordi-
13 nation with the Nuclear Regulatory Commission and
14 the Occupational Safety and Health Administration,
15 giving the schedule for termination of self-regulation
16 authority as outlined in subsection (a), including the
17 activities to be coordinated with the Nuclear Regu-
18 latory Commission and the Occupational Safety and
19 Health Administration;

20 (2) a description of any issues remaining to be
21 resolved with the Nuclear Regulatory Commission,
22 the Occupational Safety and Health Administration,
23 or other external regulators, and a timetable for re-
24 solving such issues by the authority transfer date es-
25 tablished under this section; and



1 (3) an estimate of—

2 (A) the annual cost of administering and
3 implementing self-regulation of the nuclear
4 safety and occupational safety and health re-
5 sponsibilities described in subsections (b) and
6 (c) at nonmilitary energy laboratories owned or
7 operated by the Department;

8 (B) the number of Federal and contractor
9 employees administering and implementing such
10 self-regulation; and

11 (C) the extent and schedule by which the
12 Department and the staffs at its nonmilitary
13 energy laboratories will be reduced as a result
14 of implementation of this section.

15 (h) GENERAL ACCOUNTING OFFICE REPORTING RE-
16 QUIREMENT.—The Comptroller General of the United
17 States shall periodically report to the Congress on the
18 progress made in implementing this section. The Comp-
19 troller General shall provide a report not later than 20
20 months after the date of enactment of this Act on the De-
21 partment's transition plan, and not later than 26 months
22 after the date of enactment of this Act on the implementa-
23 tion of Nuclear Regulatory Commission and Occupational
24 Safety and Health Administration regulations in the non-
25 military energy laboratories.



1 (i) DEFINITION.—For purposes of this section, the
2 term “nonmilitary energy laboratory” means—

- 3 (1) Ames Laboratory;
4 (2) Argonne National Laboratory;
5 (3) Brookhaven National Laboratory;
6 (4) Fermi National Accelerator Laboratory;
7 (5) Lawrence Berkeley National Laboratory;
8 (6) Oak Ridge National Laboratory;
9 (7) Pacific Northwest National Laboratory;
10 (8) Princeton Plasma Physics Laboratory;
11 (9) Stanford Linear Accelerator Center; or
12 (10) Thomas Jefferson National Accelerator
13 Facility.

